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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

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SIoux STEEL COMPANY,
a South Dakota corporation,

Plaintiff,

vs.

Civ. 15-4136

KC ENGINEERING, P.C., an Iowa
corporation,

Defendant.

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Deposition of: DEREK MATTHIES, PE
Date: February 27, 2017
Time: 12:05 p.m.

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APPEARANCES

Mr. G. Verne Goodsell
Goodsell Quinn, LLP
Rapid City, South Dakota

and

Ms. Amy Ellis
Sioux Steel Company General Counsel
Sioux Falls, South Dakota

Attorneys for the Plaintiff

Mr. Michael F. Tobin
Boyce Law Firm, LLP
Sioux Falls, South Dakota

Attorney for the Defendant

ALSO PRESENT: Jason O'Mara

REPORTED BY: Audrey M. Barbush, RPR

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STIPULATION

1 It is hereby stipulated and agreed by and between the
2 above-named parties through their attorneys of record, whose
3 appearances have been hereinabove noted that the deposition
4 of DEREK MATTHIES, PE, may be taken at this time and place,
5 that is, at the offices of Boyce Law Firm, LLP, 300 South
6 Main Avenue, Sioux Falls, South Dakota, on the 27th day of
7 February, 2017, commencing at the hour of 12:05 p.m.; said
8 deposition taken before Audrey M. Barbush, a Registered
9 Professional Reporter and Notary Public within and for the
10 State of South Dakota; said deposition taken for the purpose
11 of discovery or for use at trial or for each of said
12 purposes, and said deposition is taken in accordance with
13 the applicable Rules of Civil Procedure as if taken pursuant
14 to written notice. Objections, except as to the form of the
15 question, are reserved until the time of trial. Insofar as
16 counsel are concerned, the reading and signing of the
17 transcript by the witness is not waived.

-oOo-

DEREK MATTHIES, PE,

called as a witness, having been first duly sworn,
testified as follows:

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I N D E X

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2	Examination:	Page
3	By Mr. Goodsell	4
4	Exhibit Nos.:	Page
5	Exhibit 17 - Proposal, July 30, 2012, KC 81-82	8
6	Exhibit 18 - Job Information Sheet, KC 1	19
7	Exhibit 19 - Engineering Analysis and Design Review,	
8	August 28, 2012, PLF 3-4	20
9	Exhibit 20 - Addendum Letter, October 2, 2012, KC 37-38	22
10	Exhibit 21 - E-mail, KC 50-52	43
11	Exhibit 22 - Project Account Detail, KC 87-89	43
12	Exhibit 23 - 30' Hopper Cone Assembly drawing, KC 213	45
13	Exhibit 24 - Hopper Panel - Upper RH drawing, KC 218	45
14	Exhibit 25 - Handwritten notes, PLF 28-31	46
15	Exhibit 26 - ANSI/ASAE EP 433	54
16	-oOo-	
17	(The original transcript was provided to Mr. Goodsell.)	
18	-oOo-	
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1 MR. GOODSSELL: Counsel, I think we're taking these
2 depositions pursuant to notice, and then at the request
3 of the defendant you've asked that we take Derek first;
4 is that correct?

MR. TOBIN: Correct.

6 MR. GOODSSELL: Okay. And the depositions can be
7 used for all purposes under the Rules of Civil
8 Procedure, correct?

MR. TOBIN: Correct.

EXAMINATION

BY MR. GOODSSELL:

Q Would you state your full name for the record, please.

A Derek Matthies.

Q What's your professional address, Derek?

A 4300 Lakeport --

Q That's where --

A -- Sioux City.

Q -- the office of KC is at in Sioux City?

A Correct.

Q Now, have you had your deposition taken before?

A No.

Q First time?

A Yes.

Q Well, if you don't understand one of my questions, you
tell me. Okay?

<p style="text-align: right;">Page 13</p> <p>1 Q Now, KC Engineering was to review calculations, 2 correct? 3 A Correct. 4 Q It's my understanding that calculations were not 5 provided to KC; is that correct? 6 A Correct. 7 Q But the review drawings were provided, correct? 8 A Yes. 9 Q And then it's my understanding that you were going to 10 perform what is referred to as an RISA-3D finite 11 analysis, correct? 12 A Yes. 13 Q So if we look under the scope of services is that 14 KC Engineering was to review drawings, correct? 15 A Yes. 16 Q And this would be from a structural engineer analysis 17 perspective, correct? 18 A Yes. 19 Q You were to look at calculations, but that was not 20 done, correct? 21 A Correct. 22 Q And then there was an RISA-3D infinite[sic]-element 23 analysis, correct? 24 A Yes. 25 Q Okay. Now, continuing on the same document, it says,</p>	<p style="text-align: right;">Page 15</p> <p>1 EP433, correct? 2 A Correct. 3 Q Revised 2011? 4 A Yes. 5 Q Did the design drawings submitted to you by Sioux Steel 6 comply with the requirements of ANSI/ASAE EP433? 7 A For the design loads, yes. 8 Q Did the drawings submitted by Sioux Steel to KC meet 9 the requirements set out in ASCE/CEI[sic] 7-2005? 10 A Yes. 11 Q Did the design requirements -- excuse me. Did the 12 plans submitted to KC by Sioux Steel for review comply 13 with AISC Manual of Steel Construction, Edition 13? 14 A Yes. 15 Q So if I understand your testimony correctly is that it 16 was and still is your engineering opinion that the 17 reviewed drawings that you reviewed complied with the 18 design requirements set out in Exhibit 17, 1 through 4? 19 A I would say the items that we reviewed in our report 20 did. 21 Q Are there items that were not reviewed in your report? 22 A I would say that, yeah, based on our spot calculations 23 there were items that weren't looked at. 24 Q Is there anything in Exhibit 17 that would exclude 25 review of any items in the hopper?</p>
<p style="text-align: right;">Page 14</p> <p>1 "We will use the following references in our review." 2 Did you use all those references? 3 A Yes. 4 Q And did the drawings submitted to you for review meet 5 the design standards set forth under No. 1, "Design of 6 Steel Bins for Storage of Bulk Solids," by Gaylord and 7 Gaylord? 8 A I believe what we looked at did. 9 Q Are you telling me then that you qualified what you 10 looked at? 11 A I'm not sure I understand the question. 12 Q Well, did you qualify the hopper assemblies that you 13 looked at when you did your structural analysis? 14 A Yes. I believe -- I mean, our reports stated that. 15 Q And we're going to come to that report later on. I'm 16 just wondering, as you're going through right now, did 17 you qualify any aspect of your review? 18 A If it qualified for the Gaylord and Gaylord book? 19 Q Yes. 20 A Yes. That book mainly we used for the design 21 pressures. So in terms of -- 22 Q This would be both static and dynamic pressures? 23 A I would say more static. We would have used the second 24 reference for dynamic. 25 Q Okay. And the second reference here is the ANSI/ASAE</p>	<p style="text-align: right;">Page 16</p> <p>1 A No. 2 Q Now, I may have asked this before, but I want to make 3 sure is that KC provided the proposal, Exhibit 17 and 4 Exhibit 7, for structural engineering services; is that 5 correct? 6 A Correct. 7 Q And KC drafted the proposal for structural engineering 8 services, Exhibit 17 and Exhibit 7, correct? 9 A Correct. 10 Q KC specifically states in its proposal, Exhibit 7 and 11 Exhibit 17, that the project includes a structural 12 analysis of the two cone hoppers, correct? 13 A Correct. 14 Q KC specifically states in its proposal, Exhibit 7 and 15 17, that the project includes structural engineering 16 design review of the two hoppers, correct? 17 A Could you state that again? 18 Q Yes. KC specifically states in its proposal, Exhibit 7 19 and 17, that the project includes structural 20 engineering design review of the two hoppers? 21 A Yes. 22 Q In Exhibit 7 and 17, under the Scope of Structural 23 Engineering Services, KC will review drawings and 24 calculations, correct? 25 A Correct.</p>